

Application No. 09/195,105
Amendment dated October 20, 2010
Reply to Final Office Action of August 20, 2010

REMARKS

Applicant amended independent claim 9 to further define Applicant's claimed invention. No new matter has been added.

In the Office Action, the Examiner rejected claim 9 under 35 U.S.C. § 112, second paragraph, as having insufficient antecedent basis for the limitation "the government agency" recited therein. Applicant amended independent claim 9 to provide antecedent basis for the claimed element.

The Examiner rejected claims 1, 2, 4, 5, 8, 14, 16, and 30-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,644,724 to Cretzler ("Cretzler") in view of U.S. Patent No. 5,335,169 to Chong ("Chong"). Applicant traverses the rejection on the ground that the proposed combination does not disclose each and every element of independent claims 1, 30, and 32.

Independent claim 1 recites at least one tax register adapted to compute use tax data for the transaction to be indicated to an appropriate government agency "based upon a location where purchased goods are to be shipped." The Examiner admits that "Cretzler does not specifically disclose computing use tax data for the transaction to be indicated to an appropriate government agency based upon a location where the purchased goods are to be shipped." (Office Action, page 5, lines 21-23).

Applicant respectfully disagrees with the Examiner's contention that Cretzler suggests that the use tax is based on the location of the consumer "since the consumer initiates a transaction at the point-of-sale location." (Office Action, page 6, lines 1-2). More specifically, the point-of-sale location is the location of the retailer, not the location where the goods are to be shipped.

Chong discloses generating a sales tax report where "the sales records are sorted by location codes for each of the states in which the company is required to report sales tax collections" and teaches that the "totals for sales and tax amounts for each taxing authority are printed in the two end columns of the report." (Chong, col. 7, lines 32-34 and 42-44). Applicant submits that Chong discloses listing the total tax amounts due for sales made in a given state in a sales tax report and does not disclose computing use

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tax data "based upon a location where the purchased goods are to be shipped" as recited in independent claim 1.

Independent claim 30 recites "a communication link directly connecting over a network said tax register to the government taxing authority, said tax register being programmed to transmit said tax data directly to the government taxing authority via said communication link." (Emphasis added). Independent claim 32 recites that the system is operable to "directly connect via a communication link over a network to the government taxing authority, and automatically transmit said tax data over the network directly to the government taxing authority via the communication link." (Emphasis added). Applicant respectfully disagrees with the Examiner's contentions that Cretzler discloses these elements. (Office Action, page 9, lines 5-6; page 10, line 19 through page 11, line 1).

Cretzler teaches that the point-of-sale terminal sends "tax information to the bank of the merchant" and "[u]pon receipt of the transaction data [from the point-of-sale terminal], the corresponding merchant bank waits a predetermined period of time to allow the merchant to deposit the collected funds into the account of the merchant before wire transferring the sums to the taxing authority banks." (See Cretzler, col. 4, lines 54-57; col. 5, lines 1-5 (emphasis added)). Accordingly in Cretzler, the point-of-sale terminal sends tax information to the merchant bank, which subsequently wire transfers funds to taxing authority banks. The Examiner conceded that in Cretzler, the tax register transmits tax data to a "merchant bank, where the tax information is then accumulated." (Office Action, page 9, lines 9-10 (emphasis added)). Accordingly, Applicant submits that Cretzler discloses that the merchant bank transfers funds to the taxing authority bank. Cretzler does not disclose that the tax register connects directly to the government taxing authority and transmits the tax data directly to the government taxing authority as recited in independent claims 30 and 32.

Applicant submits that the combination of Cretzler and Chong, as proposed by the Examiner, does not teach or suggest each and every element of independent claims 1, 30, and 32. Accordingly, the rejection of independent claims 1, 30, and 32, and claims

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dependent from one of independent claims 1 and 30, or claims dependent therefrom, under 35 U.S.C. § 103(a) over Cretzler in view of Chong has been overcome.

The Examiner rejected claims 3, 6, 7, 9-13, and 17-27 under 35 U.S.C. § 103(a) as being unpatentable over Cretzler and Chong, further in view of U.S. Patent No. 5,774,872 to Golden et al. ("Golden"). Independent claim 9 recites a computer register adapted to calculate the use tax to be received by the government agency "based upon a location where the goods are to be shipped." Similarly, independent claim 17 recites a tax register adapted to compute use tax data for the transaction to be provided to an appropriate government agency "based upon a location where purchased goods are to be shipped." The Examiner admits that Cretzler does not disclose the recitation of where "goods are to be shipped" and improperly relies on Chong to supply this missing element. (See Office Action, page 15, lines 13-14; page 20, lines 21-23).

Applicant submits that for at least the reasons discussed above in traversing the rejection of independent claim 1, Chong does not teach or suggest computing use tax data "based upon a location where the purchased goods are to be shipped." In the rejection of independent claims 9 and 17, the Examiner combined Cretzler and Chong with Golden for Golden's alleged disclosures of "a digital data network" and generating "reports to send to the state governmental taxing authority," respectively. (See Office Action, page 17, lines 1-2; page 22, lines 1-5). Accordingly, Applicant submits that the combination of Cretzler, Chong, and Golden does not teach or suggest the above-discussed recitations of independent claims 9 and 17. Applicant submits that the rejection of 3, 6, 7, 9-13, and 17-27 under 35 U.S.C. § 103(a) over Cretzler, Chong, and Golden has been overcome.

The Examiner rejected claims 28, 29, and 33 under 35 U.S.C. § 103(a) as being unpatentable over Cretzler and Chong, further in view of U.S. Patent No. 5,642,279 to Bloomberg ("Bloomberg"). Applicant respectfully traverses the rejection on the ground that the proposed combination does not disclose each and every element of independent claims 28 and 33.

Independent claim 28 recites at least one tax register including a processor

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configured to generate tax data including a calculation of an amount of tax to be paid to a government taxing authority "for a purchase made over the Internet by a consumer." Similarly, independent claim 33 recites a processor programmed to receive, over a network, tax data including an amount of tax to be paid to a government taxing authority "for a purchase made over the Internet by the consumer from the retailer." Applicant respectfully disagrees with the Examiner's contention that it would have been obvious to combine Cretzler and Bloomberg to disclose a purchase made over the Internet (Office Action, page 27, lines 15-17) at least for the reasons that neither Cretzler nor Bloomberg teaches or suggests purchases made over the Internet.

The Examiner admits that "Cretzler does not specifically disclose a purchase made over the Internet" and relies on col. 3, lines 50-59 of Bloomberg for support. (Office Action, page 27, lines 8-9; page 30, lines 1-2). Bloomberg teaches that the "program of this invention would be run for all goods being sold at each retail location." (Bloomberg, col. 3, lines 39-40 (emphasis added)). In Bloomberg, "[t]he transaction information may be stored on-line as the information is entered by the clerk making the sale, or may be stored off-line, for example at the dealer location." (Bloomberg, col. 3, lines 57-60 (emphasis added)). In Bloomberg, the purchase is made at the retailer's location. Applicant submits that Bloomberg does not disclose calculating an amount of tax for "a purchase made over the Internet by the consumer" as recited in independent claims 28 and 33.

Applicant submits that the proposed combination of Cretzler, Chong, and Bloomberg does not teach or suggest each and every element of independent claims 28 and 33. Accordingly, it is submitted that the rejection of independent claims 28 and 33 and dependent claim 29 under 35 U.S.C. § 103(a) over Cretzler, Chong, and Bloomberg has been overcome.

Applicant submits that independent claims 1, 9, 17, 28, 30, 32, and 33 are patentable and that dependent claims 2-8, 10-14, 16, 18-27, 29, and 31 dependent from one of independent claims 1, 9, 17, 28, or 30, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

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Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-14 and 16-33 in condition for allowance. Applicant submits that the proposed amendment of claim 9 does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner. Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: October 20, 2010

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